IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL APPLICATION NO.6156 of 2005.
IN
FIRST APPEAL NO. 2523 OF 2005.

M/s.R.F.Enterprises & anr. ... Applicants.
Versus.
Goma Engineering Pvt.Ltd. ... Respondents.

Shri S.G.Gokhale for the Applicants.

Shri A.K.Pathak for the Respondents.

CORAM : ABHAY S.OKA, J.

DATED : 13th MARCH, 2006.

P.C.:

1. Rule. The Respondents waive service. Civil Application is taken up for hearing forthwith.

2. The Advocate for the Applicants submitted that considering the facts and circumstances of the case, this is a case where a departure should be made from the usual practice of granting stay subject to the deposit of decretal amount. The Advocate for the Respondents opposed the prayer for grant of stay.

3. The dispute in the suit arises out of a commercial transaction between the parties. Therefore, execution of the money decree cannot be stayed unless the entire amount due and payable under the decree is deposited by the Applicants.

4. Hence Civil Application is disposed of by the following order:

i) There will be interim relief in terms of prayer clause (a) subject to condition that the Applicants will deposit the entire amount due and payable under the impugned Judgment and decree with the trial Court within a period of 12 weeks from today.

ii) If the amount is not deposited within the stipulated time, the interim stay granted by this Court will stand vacated automatically without reference to the Court.

iii) After the amount is deposited, the Respondents will be entitled to apply to this court for seeking permission to withdraw the amount. If such an application for withdrawal is made by the Respondents, the Applicants will be entitled to oppose the same on all permissible grounds.

iv) If the Respondents fail to apply to this Court for withdrawal of the amount within

a period of 8 weeks from the date of deposit of the amount by the Applicants, the trial Court will invest the amount in a fixed deposit with any nationalised Bank initially for a period of three years and thereafter the fixed deposit be renewed from year to year till disposal of the appeal.

v) Civil Application is disposed of with above directions with no order as to costs.

Judge.